
Cabinet Member

30 January 2018

Name of Cabinet Member:

Cabinet Member for Community Development – Councillor L Bigham

Director Approving Submission of the report:

Director of Street Scene and Regulatory Services - Place

Ward(s) affected:

Willenhall

Title:

Willenhall Neighbourhood Plan – Examiners Report and Referendum.

Is this a key decision?

No.

Willenhall Neighbourhood Plan – Examiners Report and Referendum

Executive Summary:

The 2011 Localism Act introduced a right for communities to draw up a Neighbourhood Plan which is supported through national regulatory control. This provides an opportunity for local communities to get more actively involved in planning in their areas. Local Planning Authorities are expected to play a positive role in facilitating and supporting this process.

In July 2017, the Willenhall Neighbourhood Planning Forum submitted their Neighbourhood Plan to this Council. Alongside the draft Neighbourhood Plan itself, they also submitted a suite of other documents which included the Basic Conditions Statement, the Consultation Statement, and the Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) Screening Assessment.

Neighbourhood Development Plans must also be examined by a suitably qualified independent person, appointed by the Council and agreed by the qualifying body (Willenhall Neighbourhood Planning Forum). Neighbourhood plans must also pass a referendum of local voters by a simple majority. If a plan passes referendum, the Council must make (adopt) it, unless it breaches EU obligations or human rights legislation. Work is currently being developed to organise the referendum with the Council's electoral services team and is scheduled to take place on May 3, 2018 at the same time as Council local elections.

The Willenhall Neighbourhood Plan Examiner's Report has been received by the Council and is attached at Appendix 1 to this report. Appendix 2 sets out a Decision Statement which includes the Council's proposed response to the Examiner's recommended modifications. This report requests the Cabinet Member agree the Examiner's recommendations to enable the Neighbourhood Plan to proceed to a referendum.

Recommendations:

The Cabinet Member is requested to:

1. Note the Examiners Report and agree the recommended modifications to the Willenhall Neighbourhood Plan (Appendix 1);
2. Agree the Willenhall Neighbourhood Plan as modified by recommendation 1 (above) and endorse it to proceed to a local referendum; and
3. Approve the Decision Statement attached at Appendix 2 to be published on the Council's website.

List of Appendices included:

Appendix 1 - Willenhall Neighbourhood Plan Examiner's Report and recommended modifications, 8 January 2018.

Appendix 2 - Decision Statement which includes the Council's proposed response to the Examiner's recommended modifications, 9 February 2018.

Background papers:

None.

Other useful documents:

www.coventry.gov.uk/neighbourhoodplanning

Has it been or will it be considered by Scrutiny?

No.

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No – although this report has not been considered elsewhere, the Local Plan Advisory Panel and Planning Committee have been kept informed of the statutory process.

Will this report go to Council?

No.

Report title:

Willenhall Neighbourhood Plan – Examiners Report and Referendum.

1. Context (or background)

1.1 The Localism Act 2011 introduced new powers for community groups to prepare neighbourhood plans for their local areas. The Council has a statutory duty to assist communities in the preparation of Neighbourhood Plans and to take plans through a process of Examination and Referendum. The local authority is required to take decisions at key stages in the process within time limits that apply, as set out in the Neighbourhood Planning (General) Regulations 2012 as amended in 2015 and 2016 (“the Regulations”).

1.2 The Willenhall Neighbourhood Plan has been prepared jointly by the Willenhall Community Planning Forum with on-going engagement with the local community and Council. Prior to Examination, the Willenhall Neighbourhood Plan went through the following stages of preparation:

- Designation as a Neighbourhood Area (October 2013)
- Designation as a Neighbourhood Forum (February 2014)
- Consultation on a pre-submission version (November 2016)
- Submission to the Council (July 2017)
- Submission and publicity (August 2017)

1.3 Following the end of the publicity period, and with the consent of the Willenhall Community Planning Forum, an independent examiner was appointed via the Neighbourhood Planning Independent Examiner Referral Scheme to undertake an Independent Examination of the Neighbourhood Plan. The purpose of the Examination is to consider whether the Plan complies with various legislative requirements and meets a set of “Basic Conditions” which are:

- i) To have regard to national policies and advice contained in guidance issued by the Secretary of State;
- ii) To contribute to the achievement of sustainable development;
- iii) To be in general conformity with the strategic policies contained in the development plan for the area; and
- iv) To not breach, and be otherwise compatible with, EU and European convention on Human Rights obligations.

1.4 The Examiner can make one of three overall recommendations on the Neighbourhood Plan namely that it can proceed to referendum (i) with modifications; (ii) without modification; or (iii) that the Plan cannot be modified in a way that allows it to meet the Basic Conditions or legal requirements and should not proceed to referendum.

1.5 Overall, the Examiners report concluded *“Subject to a series of recommended modifications set out in this report I have concluded that the Willenhall Neighbourhood Plan meets all the necessary legal requirements and should proceed to referendum”*.

1.6 For the avoidance of doubt, the modifications to the Plan can be summarised as follows:

- **Policy 1 – Scale and Distribution of Housing Development:** New paragraph to ensure references in the Plan to the appropriateness of the Extended Learning Centre (site A), the Willenhall Education, Employment and Training Centre (site B) and the Children and Social Care Offices (site C) are captured in this policy rather than Policy 5.

- **Table 2:** minor changes to the numbers to reflect factual corrections.
- **Policy 4 – Willenhall Local Centre:** minor wording additions to ensure policy does not automatically presume the granting of planning permission and the deletion of criterion (b).
- **Policy 5 – Willenhall Community Hub:** deletion of the second part of the policy and a modification to the main part to ensure it is a policy-based approach and not a statement of fact. Supporting text modified to ensure West Midlands Constabulary have a presence in the community hub.
- **Policy 6 – Education:** policy recast so that it refers to CCC education standards and modifications to the supporting text. In combination they will provide the clarity required by the NPPF.
- **Policy 7 – Health and Well-being:** delete criterion e.
- **Policy 8 – Transport:** modification to the opening part of the policy so that it deletes any reference to traffic management and that it refers only to the Plan area.
- **Policy 10 – Willenhall Village Green:** detailed modification to the wording of the policy so that it has the clarity required by the NPPF.
- **Policy 11 – Important Open Spaces:** modification to the second part of the policy so that the detailed wording has the clarity required by the NPPF.

2. Options considered and recommended proposal

2.1 As the Willenhall Community Planning Forum have accepted all of the recommended modifications of the Examiner, and the Examiner has concluded that this will then satisfy the Basic Conditions, the Council has an obligation, under Schedule 4B of the 1990 Town and Country Planning Act, to arrange a local referendum, unless the Examiner's recommended modifications and/or conclusions are to be challenged. The recommendation to the Cabinet Member is that the modifications made by the Examiner are well justified and that, with these modifications, the Willenhall Neighbourhood Plan proposals would meet the legislative requirements. The Council must organise a referendum on any Neighbourhood Plan that meets the legislative requirements. This gives the local community the opportunity to vote on whether they deem the Neighbourhood Plan meets the needs and aspirations for the future of their neighbourhood.

2.2 The following alternative options have been identified and rejected for the reasons as set out below:

Option: to provide modified recommendations to those made by the Examiner and, if considered to be significant, agree that these will be subject to further consultation along with a statement explaining why the decision differs from the Examiner's. This option is not considered appropriate as the proposed modifications make the Neighbourhood Plan more robust and enable it to further meet the Basic Conditions.

Option: reject the Examiner's recommendations and refuse the Neighbourhood Plan proposal. This option can only be justified if the Examiner recommends that the Plan should not proceed to a referendum, or the Council is not satisfied that the plan has met the procedural and legal requirements. This option is not considered appropriate or justified.

3 Results of consultation undertaken

- 3.1 The Willenhall Neighbourhood Plan has been through several stages of consultation. These include, inter alia, consultation on the neighbourhood area boundary (October 2013), consultation on the neighbourhood forum membership (February 2014), consultation on a pre-submission version of the Plan (November 2016), consultation on a submission version of the Plan (August 2017).
- 3.2 A Consultation Statement accompanied the submission version of the Neighbourhood Plan and sets out all consultations undertaken to date. All consultations undertaken by the Council have been carried out in accordance with the Council's adopted Statement of Community Involvement. Responses to each stage of the consultation have been relatively limited, particularly at the post submission stage (Regulation 16), but have been generally positive.
- 3.3 In all, seven representations were received at the Regulation 16 stage – six in support/no comment and one objection. The objection focused on Policy 7 (Health and Well-Being) and concerns that it implied a link between the proximity of hot food takeaways and incidences of obesity. All representations received were sent to the Examiner for his consideration.

4 Timetable for implementing this decision

- 4.1 Subject to approval by the Cabinet Member, the recommendations in this report would become effective from 9 February 2018. The Returning Officer must organise a referendum on any Neighbourhood Plan that meets the legislative requirements. This ensures that the community have the final say on whether a Neighbourhood Plan comes into force. The Returning Officer has set the date of the Willenhall Neighbourhood Plan referendum as May 3 2018 and will be responsible for organising and managing this process. The decision was taken to combine this poll with the elections for the City Council to reduce the risks associated with holding two polls close to each other. Although the referendum date requires an extension of two days to the 56 day statutory timescale for holding a referendum, the Returning Officer has sought agreement from the Willenhall Neighbourhood Planning Forum (qualifying body) to this extension and they have formally agreed to the referendum date.
- 4.2 If the referendum result is positive and endorses the Plan, a separate report would be presented to the next available Cabinet Member and Full Council meetings seeking a recommendation to 'make' (adopt) the Willenhall Neighbourhood Plan.

5 Comments from the Director of Finance and Corporate Services

5.1 Financial implications

The Council can seek grant funding from the DCLG to cover the costs of neighbourhood planning. The current arrangements for claiming financial support stay in place for 2017/18. The first payment of grant to the Council totalled £5,000 following designation of the neighbourhood area recognising the officer time supporting and advising the community in taking forward a neighbourhood plan. The second grant payment of £20,000 would be made on successful completion of the neighbourhood plan. All grant monies received will be needed to cover the costs of the examination and any other further steps that may be needed for the neighbourhood plan to come into legal force, including the referendum. The examiners costs have totalled approximately £7,500 and the public referendum costs are estimated to be £16,000 - £20,000.

Any further costs associated with supporting Neighbourhood Planning would be funded from existing Local Plan revenue budgets where they exceed the grant funding secured from government.

Finally, communities with Neighbourhood Plans in place could also benefit financially should the Council adopt a Community Infrastructure Levy (CIL). The Community Infrastructure Levy Regulations (2010, as amended) set out this should be a minimum of 15% of receipts where there is no neighbourhood plan in place. This rises to 25% in areas where there is an adopted Neighbourhood Plan in place. The money must be spent on priorities agreed with the local community in areas where development is taking place, and in accordance with the Councils list of infrastructure priorities (known as the Regulation123 list).

5.2 Legal implications

The Neighbourhood Plan has been developed in accordance with the relevant legislation and regulations which govern the process, as endorsed in the Examiners report. Given that the Neighbourhood Plan is now at an advanced stage, its policies, where relevant, have legal weight in decision making with regard to any planning applications to be determined within the designated neighbourhood area. This is reflected in a provision in the Neighbourhood Planning Act 2017 which, provides that, when determining an application, the Council must have regard to “a post examination draft neighbourhood development plan as far as material to the application”. If a Council make a decision to allow a draft neighbourhood plan with modifications to proceed to a referendum, then the modifications recommended must also be taken into account.

6 Other implications

None.

6.1 How will this contribute to achievement of the Council's Plan?

- A prosperous Coventry: the Willenhall neighbourhood plan would help contribute to the overall prosperity of Willenhall and wider Coventry residents by having a proactive and structured plan to help enable continued investment and regeneration through the statutory plan making process;
- Citizens living longer, healthier, independent lives: choosing the right approach to neighbourhood planning would help promote improvements to the existing built environment in Willenhall. New areas of green spaces and new health facilities could be secured from the neighbourhood plan policies and proposals.
- Making Coventry an attractive and enjoyable place to be: Choosing the right approach to delivering the city's planning needs would help promote improvements to the existing built environment in Willenhall. This would also create opportunities for the Willenhall local centre to develop and regenerate supporting increased investment and ensuring the most valuable and sensitive green spaces will also be protected from inappropriate development.
- Providing a good choice of housing: The suite of policies in the Willenhall neighbourhood plan would ensure that housing need in Willenhall is adequately planned and supported so that sufficient new homes are appropriately planned to meet the needs of local people.
- Making places and services easily accessible: New homes and job opportunities will be brought forward in a planned and sustainable way. In practical terms this will help ensure the right amount of new development happens to ensure that services are viable and accessible. The neighbourhood plan would also promote

sustainable development with adequate provision of infrastructure and improved accessibility to key services and facilities across and beyond the Willenhall area.

- Encouraging a creative, active and vibrant city: New infrastructure, supported through the neighbourhood plan, would facilitate and enable job opportunities to be brought forward in a planned and sustainable way. In practical terms this will help ensure the right amount of new development happens to ensure that services are viable and accessible.
- Developing a more equal city with cohesive communities and neighbourhoods: By planning proactively for Willenhall's development needs, their Plan could help to ensure that more people will be adequately housed, with greater access to new jobs, leisure provisions and community facilities.
- Improving the environment and tackling climate change: The successful implementation of Willenhall's neighbourhood plan would help seek to mitigate the impacts of development on the environment through the policies and proposals on which they are based. The Plan would also help bring about improvements to areas in need of investment and regeneration together with the protection of the most valuable and sensitive areas of green space from inappropriate development.

6.2 How is risk being managed?

The main risks associated with the Willenhall Neighbourhood Plan could arise from the failure to comply with the laws and regulations relating to Planning, Strategic Environmental Assessment processes and not exercising local control of developments. These risks would be adequately managed through the agreement of the recommendations in this report.

6.3 What is the impact on the organisation?

No direct impact.

6.4 Equalities / EIA

A key aspect of the planning process is to enable and support neighbourhood plans and to mitigate any potential adverse impacts of development. Having a Willenhall Neighbourhood Plan in place would assist the Council in developing sites and regenerating the Willenhall area thus helping to further reduce any perceived or known inequalities.

6.5 Implications for (or impact on) the environment

None.

6.6 Implications for partner organisations?

None.

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